



# News Release

**IDAHO DEPARTMENT OF WATER RESOURCES**  
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**STATE CAUTIONS POND OWNERS:**  
**WATER RIGHT MAY BE REQUIRED**

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Aesthetic water ponds have become a trendy new element in many Idaho home sites. But now state water managers are cautioning pond owners that they may be in violation of state water law if they do not have an approved water right that authorizes the impoundment of water in the pond.

Idaho law generally requires a water right to use water in a pond that has been built by excavation to create a basin that fills naturally with water, that is filled by diverting water into the basin or by building an embankment or other structure to create a pond that fills or is filled by water, officials with the Idaho Department of Water Resources said.

That means a pond dug on your property and allowed to fill with ground water or filled with water diverted from a canal or irrigation ditch would in nearly all instances require a water right. Using the water without a valid water right can result in civil penalties of up to \$250 per acre foot of water being stored. An acre foot is the amount of water required to cover an acre of ground with water one foot deep.

Property owners sometimes mistakenly believe water supplied by an irrigation district or canal company and used to fill a pond is already covered by water rights held by the company. However, IDWR officials say in nearly all cases canal water can only be used for irrigation, not for aesthetic or relational uses. Idaho law specifies that public water can only be used for purposes authorized in its water right. Using irrigation water for aesthetic storage purposes thus becomes illegal under Idaho water law.

IDWR officials say they believe the problem is widespread in the state, but especially so in developing rural residential areas such as the Treasure Valley.

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A water right is not required to build and use a pond that meets the requirements of Idaho's domestic exemption legal provision. However, the final determination as to whether or not the pond meets that requirement can be quite complex.

State water right agents use special computer programs to determine whether or not the total water use of the pond and other domestic uses exceeds the 13,000 gallons per day limit authorized under the exemption. The programs calculate water use factors including evaporation, seepage, flow-through water and pond fill rates, plus any other domestic uses of the water.

Generally, a water right is not needed for a natural pond, which has been formed through natural conditions where a physical diversion of water is not involved.

IDWR strongly urges residents who plan to build ponds or who have developed or built ponds on their property to check with the nearest IDWR office to determine whether or not a water right is required.

If a permit is required, the pond owner will need to file an application for a new water right or the transfer of an existing right to cover the water use. The pond owner may also be required to provide appropriate mitigation to offset reduction in water available to water right holders with senior rights.